

EXHIBIT

43

KING
VS.
PARKER, et al.

30(b)(6)

STEVEN TURLEY

September 17, 2021



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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF TENNESSEE
3 AT NASHVILLE

4 TERRY LYNN KING,

5 Plaintiff,

CAPITAL CASE

6 vs.

Case No. 3:18-cv-01234

7 TONY PARKER, et al.,

JUDGE CAMPBELL

8 Defendants.

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13 Videoconference Deposition of:

14 STEVEN TURLEY 30(B)(6) UTAH DEPARTMENT OF
15 CORRECTIONS

16 Taken on behalf of the Defendants
17 September 17, 2021

18 Commencing at 10:00 a.m.

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4 The videoconference deposition of
5 STEVEN TURLEY 30(b)(6) UTAH DEPARTMENT OF
6 CORRECTIONS was taken by counsel for the
7 Defendants, by subpoena, with all participants
8 appearing at their respective locations, on
9 September 17, 2021, for all purposes under the
10 Tennessee Rules of Civil Procedure.

11 All objections, except as to the form of
12 the question, are reserved to the hearing, and said
13 deposition may be read and used in evidence in said
14 cause of action in any trial thereon or any
15 proceeding herein.

16 It is agreed that Deborah H. Honeycutt,
17 Notary Public and Licensed Court Reporter for the
18 State of Tennessee, may swear the witness remotely,
19 and that the reading and signing of the completed
20 deposition by the witness is not waived.
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* * *

THE REPORTER: Good morning. My name is Deborah Honeycutt. I am a stenographic reporter with Elite-Brentwood Reporting Services. My license number is 472. Today's date is September 17, 2021, and the time is approximately 10:00 a.m. Central time.

This is the deposition of Steven Turley

30(b)(6) Utah Department of Corrections in the
matter of Terry Lynn King vs. Tony Parker, et al.,
filed in the United States District Court for the
Middle District of Tennessee. The Case Number is
3:18-cv-01234.

This deposition is being taken by videoconference, and the oath will be administered remotely by me. Any digital exhibits marked during this deposition will be deemed as "original" for purposes of said deposition, with the actual original document retained by counsel introducing the exhibit for purposes possibly needed for in-court hearing.

At this time, I'll ask counsel to identify yourselves and state whom you represent. If you have any objections with the procedures I've

1 outlined, please state so when you introduce
2 yourself. We will start with the noticing attorney.

3 MR. MITCHELL: Good morning. My name is
4 Rob Mitchell. I'm an attorney with the Tennessee
5 Attorney General's Office, and I represent the
6 defendants in this case, Tennessee Department of
7 Correction, Commissioner Tony Parker, and Riverbend
8 Maximum Security Institution Warden Tony Mays.

9 With me are Scott Sutherland, Dean
10 Atyia, and Cody Brandon. All are Deputy or
11 Assistant Attorney Generals with the Tennessee
12 Attorney General's Office, and all of them represent
13 the two defendants in this case.

14 MR. ATYIA: I haven't entered an
15 appearance. I do not represent the defendants. I'm
16 here to observe.

17 MR. MITCHELL: I misspoke. Mr. Atyia
18 has not entered an appearance in this matter,
19 although he is an employee of the Tennessee Attorney
20 General's Office.

21 MS. NELSON-MAJOR: Good morning. My
22 name is Hayden Nelson-Major. I'm with the Federal
23 Community Defender Office for the Eastern District
24 of Pennsylvania. I represent Plaintiff Terry King.
25 And also on the Zoom are my co-counsel Sarah Miller

1 and Jeremy Gunn of the law firm Bass, Berry & Sims.

2 MR. BOKOVOY: Good morning. My name is
3 Dan Bokovoy. That's spelled B, as in Bravo,
4 O-K-O-V, as in Victor, -O-Y. I represent the Utah
5 Department of Corrections. I'm with the Utah
6 Attorney General's Office. And my client is
7 Mr. Steven Turley.

8
9 * * *

10 STEVEN TURLEY 30(b)(6) UTAH DEPARTMENT OF CORRECTIONS
11 was called as a witness, and after having been duly
12 sworn, testified as follows:

13
14 EXAMINATION

15 QUESTIONS BY MR. MITCHELL:

16 Q. Good morning, Mr. Turley.

17 A. Good morning.

18 Q. My name is Rob Mitchell. I'm an attorney
19 with the Tennessee Attorney General's Office. A
20 couple of ground rules I would like to go over
21 before we begin your deposition. If I ask you a
22 question and you can't hear me, will you agree to
23 ask me to repeat that question?

24 A. I will.

25 Q. And if I ask you a question and you don't

1 understand what I'm asking, will you ask me to
2 clarify that question?

3 A. I will.

4 Q. Your counsel may have told you this, but
5 breaks are completely fine. Any time you want to
6 take a break just let us know. The only rule with
7 that is we can't take a break between me asking a
8 question and you answering a question. Can we agree
9 to that?

10 A. Well, if you ask a question and I need to
11 speak to my counsel about it, can we go on mute?

12 Q. Yes. Yes. We can probably do that. I
13 think --

14 A. Okay.

15 Q. I think that can be a default rule if you
16 need to speak with your counsel.

17 A. Okay. Yes.

18 Q. Mr. Turley, are you under the influence of
19 anything, including medications, that could affect
20 your ability to testify truthfully and accurately
21 today?

22 A. No, I am not.

23 Q. Do you have any medical condition or
24 diagnosis that could affect your testimony today?

25 A. I do not.

1 Q. What is the highest level of education you
2 received, Mr. Turley?

3 A. High school.

4 Q. And have you ever given a deposition before?

5 A. Several.

6 Q. About how many?

7 A. Six, seven.

8 Q. When was the last deposition you took?

9 A. A couple years ago, 2019.

10 Q. Was that in Ohio?

11 A. That was.

12 Q. Have you ever testified in court before?

13 A. Yes.

14 Q. How many times?

15 A. Oh, I don't even know. A few.

16 Q. At least ten?

17 A. No. Less than that.

18 Q. Did you speak to anyone to prepare for your
19 testimony today?

20 A. I did.

21 Q. Who did you speak to?

22 A. Mr. Bokovoy.

23 Q. Did you speak to anyone else to prepare for
24 your testimony today?

25 A. No.

1 Q. Did Mr. Bokovoy read anything to you?

2 A. Yeah, he did.

3 Q. Did you read anything yourself to prepare for
4 your testimony today?

5 A. I have.

6 Q. What did you read to prepare for your
7 testimony today?

8 A. Policy and procedure, prior deposition
9 documents, as well as other documents that were
10 submitted for this deposition.

11 Q. When you say policy and procedure, is that
12 the June 10th, 2010 Utah Department of Corrections
13 policy and procedure for executions?

14 A. I don't know the number, but it is our policy
15 and procedure for executions is what I read.

16 Q. And do you have some documents in front of
17 you, Mr. Turley?

18 A. I do.

19 Q. What documents do you have in front of you?

20 A. Prior deposition documents and some packets
21 that you received -- or some documents that you
22 received via email from prior executions, or
23 pictures of a chair, the chamber, a media packet,
24 et cetera.

25 Q. In the prior deposition testimony that you

1 reviewed, was that your own deposition testimony?

2 A. Yes, it was, as well as Mr. Pay's (phonetic.)

3 Q. Would that be Greg Pay?

4 A. That would be.

5 Q. Was that testimony of Mr. Pay given in an
6 Ohio case?

7 A. I believe so.

8 Q. And was your prior testimony that you
9 reviewed given in an Ohio case?

10 A. It was. The one I reviewed for this, it was.

11 Q. Did you review any other testimony from
12 anyone to prepare for your deposition today?

13 A. I did not.

14 Q. Is there anything else you haven't mentioned
15 that you reviewed to prepare for your testimony
16 today?

17 A. No.

18 Q. Mr. Turley, are you aware that you've been
19 designated by the Utah Department of Corrections as
20 a Rule 30(b)(6) representative witness?

21 A. I am.

22 Q. Just one moment. Mr. Turley, can you see
23 this document right here?

24 A. I can.

25 Q. And do you see where it says amended notice

1 of deposition?

2 A. Uh-huh.

3 Q. Have you seen this document before?

4 A. I saw it on my email but I did not read it.

5 Q. And do you see where it says that Defendant
6 Tony Parker, Commissioner of the Tennessee
7 Department of Correction, and Tony Mays, Warden of
8 Riverbend Maximum Security Institution, give notice
9 to Plaintiff and his counsel of the attached
10 subpoena seeking the production of documents and
11 testimony from the Utah Department of Corrections?

12 A. I can see that, uh-huh.

13 Q. Is that the deposition we're here for today?

14 A. I believe so.

15 Q. And did you see this portion of the subpoena
16 where it says topics of examination?

17 A. No, I did not.

18 Q. Can you see Topic Number 1? Are you able to
19 read that?

20 A. Utah's protocol for performing an execution
21 by firing squad.

22 Q. And are you prepared to discuss that topic
23 today?

24 A. From what I know, yes.

25 Q. And Topic Number 2, the equipment used to

1 carry out an execution by firing squad in Utah, is
2 that a topic you're also prepared to talk about
3 today?

4 A. To the best of my knowledge, yes.

5 Q. And Topic Number 3, the layout of the
6 facilities used for carrying out an execution by
7 firing squad in Utah, is that a topic you're
8 prepared to talk about today?

9 A. Yep. Yes.

10 Q. Topic 4, the planning and construction of the
11 facilities used to carry out execution by firing
12 squad in Utah, are you prepared to talk about that
13 topic?

14 A. Yeah. From what I know on that, yes.

15 Q. And Topic Number 5, the maintenance of the
16 facilities used to carry out execution by firing
17 squad in Utah, are you also prepared to talk about
18 that topic?

19 A. Yeah, I am.

20 Q. Topic Number 6, the outfitting of the
21 facilities used to carry out execution by firing
22 squad in Utah, including any ballistics safety
23 equipment used, is that a topic you're prepared to
24 testify about?

25 A. Yes.

1 Q. Topic 7, the sources constructed to plan and
2 construct facilities used to carry out execution by
3 firing squad in Utah, are you prepared to talk about
4 Topic 7?

5 A. Yes, limited, but I can talk about it.

6 Q. Topic 8, the selection and training of
7 personnel to perform execution by firing squad in
8 Utah, are you prepared to talk about that topic?

9 A. I am.

10 Q. And Topic 9, the cost and resources
11 associated with implementing and carrying out the
12 protocol for conducting execution by firing squad in
13 Utah, are you also prepared to talk about Topic 9?

14 A. I am. I know very little on that but -- but
15 I am.

16 MR. MITCHELL: If we could make this
17 Exhibit 1, please.

18 (WHEREUPON, a document was marked as
19 Exhibit Number 1.)

20 BY MR. MITCHELL:

21 Q. And Mr. Turley, do you understand that your
22 answers are the answers of the Utah Department of
23 Corrections?

24 A. I do.

25 Q. And if I say UDC, can we agree that that

1 means the Utah Department of Corrections?

2 A. Sure.

3 Q. Do you refer to the Utah Department of
4 Corrections as UDC?

5 A. I do.

6 Q. Mr. Turley, what is your position with UDC?

7 A. I am a division director over special
8 projects currently.

9 Q. And how long have you been in that role?

10 A. Since about 2013.

11 Q. And what are your job responsibilities in
12 that role?

13 A. Currently I oversee a construction of a new
14 prison facility.

15 Q. And is that new prison facility open with
16 inmates yet?

17 A. No.

18 Q. When is the prison facility anticipated to
19 open?

20 A. Next year in June. 2022 in June.

21 Q. And before taking on your current role in
22 2013, what was your role with the Utah Department of
23 Corrections?

24 A. I was a division director over administrative
25 services for a time. I can go through my whole

1 career if you want in 20 seconds.

2 Q. Why don't you do that. That sounds good.

3 A. Okay. I started in 1990. Moved up the
4 ranks -- sergeant, lieutenant, captain, deputy
5 warden, warden -- from 2007 to 2010. Division
6 director over prison operations from 2010 to 2013.

7 And from 2013, I was division director over
8 prison projects, interim audit director, as well as
9 administrative services director. And currently for
10 the last five years, I've just specifically been
11 division director over prison projects, overseeing
12 construction of facilities.

13 Q. When you were a warden from 2007 to 2010, was
14 that at a single prison or multiple?

15 A. It's a campus-wide. It had -- well, it's --
16 it's two -- it's one prison but it houses 4,000
17 inmates, both female, male, minimum, maximum,
18 medium, work camp. It's all-in-one.

19 Q. And what's the name of that prison?

20 A. The Draper -- the Utah Draper Facility.
21 Draper Utah Facility.

22 Q. And at the time you were warden, were
23 executions in Utah performed at the Draper Facility?

24 A. They were.

25 Q. And now in September of 2021, if there is an

1 execution in Utah, would it be performed at the
2 Draper Facility?

3 A. It would be.

4 Q. When you were warden, were any executions
5 performed at the Draper Facility?

6 A. There was one.

7 Q. And what was the name of that inmate?

8 A. Ronnie Lee Gardner.

9 Q. And do you know when Ronnie Lee Gardner was
10 executed?

11 A. I don't know the exact date. It was June.
12 June something of 2010, I think.

13 Q. What were your job responsibilities as warden
14 of the Draper Facility?

15 A. I oversaw the operations of the entire
16 facility. I don't know what else to say on that. I
17 just -- it all falls back to the warden.

18 Q. And was the execution of Ronnie Lee Gardner
19 performed by firing squad?

20 A. It was.

21 Q. In your role overseeing the new prison,
22 what's the name of that new prison?

23 A. Utah State Correctional Facility.

24 Q. And what sources did the UDC consult for
25 building the Utah State Correctional Facility?

1 A. Well, we have contractors. We have
2 consultants. We have architects. And a lot of our
3 own staff.

4 Q. And will there be an execution chamber at the
5 Utah State Correctional Facility?

6 A. There will be.

7 Q. Will that execution chamber be outfitted for
8 firing squad executions?

9 A. It will be.

10 Q. Will that execution chamber be outfitted for
11 any other type of execution?

12 A. It will be.

13 Q. What other types of executions will that new
14 execution chamber be outfitted for?

15 A. Lethal injection.

16 Q. Any other types of executions?

17 A. No.

18 Q. And what about the Draper Facility? Besides
19 firing squad, is the Draper Facility outfitted for
20 any other form of execution?

21 A. For lethal injection.

22 Q. And besides lethal injection, any other form
23 of execution?

24 A. No.

25 Q. What sources did UDC consult to design the

1 execution chamber at the Draper Facility?

2 A. That I don't know.

3 Q. How long has the execution chamber at the
4 Draper Facility been in existence?

5 A. The current one?

6 Q. Yes.

7 A. I believe since 1998.

8 Q. And what sources did UDC consult to design
9 the new execution chamber?

10 A. We -- along with our architect, we felt it
11 best to mimic what we have at Draper. And so those
12 two -- the one at Draper and the one at USCF are --
13 there's one different feature, one door, but other
14 than that it's exactly the same.

15 Q. What is the different door?

16 A. It's on the opposite side of where it is in
17 Draper for the -- for the government witnesses, it's
18 on the opposite side of the room is all. That's
19 all.

20 Q. And why UDC choose to put the door on the
21 other side?

22 A. We didn't. The architects did.

23 Q. Do you know why the architect chose to put
24 the door on the other side?

25 A. No, I do not.

1 Q. Besides an architect when designing the
2 execution chamber at USCF, did UDC consult with any
3 other sources for the design of the execution
4 chamber?

5 A. No.

6 Q. When UDC conducts a execution by firing
7 squad, does UDC rely on employees to participate in
8 that execution?

9 A. We do.

10 Q. Are those employees volunteers?

11 A. Most certainly.

12 Q. Are there employees who aren't volunteers for
13 a firing squad execution?

14 A. No.

15 Q. How are volunteers selected?

16 A. We ask for a -- any staff member that would
17 be interested in taking part or having some form of
18 responsibility in an upcoming execution, please let
19 us know, and they let us know.

20 Q. And after staff have let you know that they
21 are interested, are those staff vetted?

22 A. Yeah. Yeah. Not everybody has the
23 opportunity to participate. And so we just go
24 through the names, and we would identify those who
25 we feel would be best for the position.

1 Q. And what would qualify someone to be equipped
2 for the position?

3 A. If they're a staff member they're qualified.

4 Q. Are any staff members ever rejected after
5 they had expressed interest in participating?

6 A. Meaning they weren't chosen, the answer would
7 be yes.

8 Q. And what are some of the reasons staff
9 members aren't chosen?

10 A. Oh, I -- we just didn't feel like they would
11 be a good fit.

12 Q. Is that conclusion ever a result of a lack of
13 experience?

14 A. No. Huh-uh.

15 Q. Is it more temperamental?

16 A. I think it's just personalities, you know.
17 Maybe experience might -- go back to the last
18 question -- it might play but I don't think it does
19 play a piece in that. We wouldn't say that person
20 is brand-new so we're not going to use him or her.
21 I don't believe that occurred.

22 Q. When UDC is conducting an execution by firing
23 squad, is there what is called an execution team?

24 A. Yes.

25 Q. And are there sub-teams within that execution

1 team?

2 A. You need to be more specific. I'm not sure.
3 The execution team would -- are you saying that's
4 the firing squad?

5 Q. I'm asking if the firing squad would be a
6 part of that or maybe all of that?

7 A. The firing squad are not members of UDC.
8 They can be. When I participated in they were not.
9 There's other teams. There's tie-down teams.
10 There's observation teams. There is perimeter
11 security teams that make it all happen.

12 Q. And just to make sure I heard you correctly,
13 the firing squad team members aren't necessarily
14 members of UDC?

15 A. That is correct.

16 Q. But they could be members of UDC?

17 A. Yeah. I don't think that's ever happened,
18 but they could be.

19 Q. You mentioned the tie-down team. What's the
20 tie-down team?

21 A. They're the ones that escort the inmate, the
22 condemned, from a cell to the chair, and then they
23 would tie down, strap the inmate in for a better
24 term.

25 Q. How many people are on the tie-down team?

1 A. I think five.

2 Q. And are there any backup members of the
3 tie-down team?

4 A. Yeah. There would be in case something
5 happened.

6 Q. How many?

7 A. I think there was two. I think two.

8 Q. So seven members total?

9 A. I think so.

10 Q. And how is the condemned tied down to the
11 execution chair for a firing squad execution?

12 MR. BOKOVOY: Dan Bokovoy. I'm going to
13 object to getting into this information. This is
14 protected information. It's a security concern for
15 us. And we don't want to get into specifics in how
16 the inmate is tied down. So with this question, I
17 would instruct my client not to answer the question.

18 MR. MITCHELL: Understood. Thank you,
19 Mr. Bokovoy.

20 BY MR. MITCHELL:

21 Q. You mentioned an observation team; is that
22 right, Mr. Turley?

23 A. That's correct.

24 Q. What's the observation team?

25 A. We have an officer assigned to observe the

1 condemned at all times while he's in the execution
2 cell.

3 Q. And prior to a firing squad execution, how
4 long is the condemned in a cell?

5 MR. BOKOVOY: Could you repeat that
6 question?

7 MR. MITCHELL: Sure. Sure. That may
8 have been a bad question.

9 BY MR. MITCHELL:

10 Q. Prior to being executed by firing squad, how
11 long is the condemned in the execution chamber cell?

12 A. We --

13 MR. BOKOVOY: I object to that question.
14 This is protected information. It's a security
15 concern for us. And I would instruct my client not
16 to answer that question.

17 MR. MITCHELL: Absolutely.

18 BY MR. MITCHELL:

19 Q. How many members are on the observation team?

20 A. They rotate every 15 minutes, and so I'm
21 thinking there's four.

22 Q. And are there any backup members to the
23 observation team?

24 A. Not that I recall.

25 Q. Is there also a clean-up team?

1 A. There is.

2 Q. What's the clean-up team?

3 A. Post execution they go in and clean up the
4 execution chamber.

5 Q. And what does cleaning up the execution
6 chamber consist of?

7 A. If there was any bodily fluids, they clean it
8 up with a -- with a Clorox Bleach, a mixture of
9 water. They just make sure that it's clean as it
10 was before the execution.

11 Q. And bodily fluids, would that include blood?

12 A. That would be yes.

13 Q. After Mr. Gardner's execution, was there
14 blood in the execution chamber?

15 A. There was.

16 Q. Where was that blood located?

17 A. On the floor to his left and also on the wall
18 to his left.

19 Q. And did the clean-up team then go in and
20 clean that blood up?

21 A. That is correct.

22 Q. Was there any blood on the chair after
23 Mr. Gardner's execution?

24 A. I don't specifically remember that, actually.

25 Q. And how many members are on the clean-up

1 team?

2 A. I don't know.

3 Q. At least three?

4 A. Yes. Yeah.

5 Q. Are there also witness escorts at an
6 execution by firing squad at UDC?

7 A. Do you mean staff member that escorts
8 witnesses?

9 Q. Yes.

10 A. Yes, that would be correct.

11 Q. And how many staff members perform that role?

12 A. Eight.

13 Q. And are there any backup staff members to
14 that role of witness escort?

15 A. I don't recall that. Yeah, I don't
16 specifically recall if there was backups.

17 Q. And just yes or no. Is there also a
18 perimeter of security team?

19 A. Yes.

20 Q. And how many members are part of that
21 perimeter of security team?

22 MR. BOKOVOY: I would object to this
23 question. That would be protected information as a
24 security concern. And I would instruct my client
25 not to answer that question.

1 BY MR. MITCHELL:

2 Q. And Mr. Turley, you mentioned that the
3 members of the firing squad aren't necessarily
4 members of the execution team. Did I understand
5 that right?

6 A. That is correct.

7 Q. Is there another term for the members of the
8 firing squad or are they just referred to as members
9 of the firing squad?

10 A. I think we refer to them as executioners.

11 Q. And for an execution by firing squad, how
12 many executioners are there?

13 A. Five.

14 Q. And are there any backup members for that?

15 A. Two.

16 Q. And then is there also a team leader?

17 A. There would be.

18 Q. And so would that be eight members of the
19 executioners' team?

20 A. No. Seven. Five and two.

21 Q. And then the team leader is one of those
22 five?

23 A. That is correct.

24 Q. Do you also refer to the executioners as
25 riflemen?

1 A. I never have.

2 Q. How many executioners pull a trigger at a UDC
3 execution by firing squad?

4 A. Five.

5 Q. Do each of those five executioners have live
6 rounds in their firearm?

7 A. No.

8 Q. How many executioners have live rounds in
9 their firearm?

10 A. Four.

11 Q. And what does the other executioner have in
12 their firearm, if anything?

13 A. A blank round.

14 Q. And what firearm do the executioners shoot?

15 A. A 30-caliber.

16 Q. A 30-caliber rifle?

17 A. Uh-huh.

18 Q. To be an executioner for a UDC firing squad
19 execution, are there any required credentials?

20 A. Yes. You have to be P.O.S.T. certified.

21 P.O.S.T. means Police Officers Standard and
22 Training. And they have to be P.O.S.T. certified.

23 Q. And besides being P.O.S.T. certified, are
24 there any other credentials that an executioner for
25 a UDC firing squad execution must have?

1 A. No. I mean, if you're getting to how they're
2 chosen?

3 Q. Yes.

4 A. It's usually from the county --

5 MR. BOKOVOY: I'm going to object to
6 Mr. Turley's response at this point. That is
7 protected information. I instruct my client not to
8 discuss where we choose executioners.

9 MR. MITCHELL: And I am happy to move to
10 strike that response.

11 MR. BOKOVOY: Thank you.

12 BY MR. MITCHELL:

13 Q. Is there other experience that UDC looks for
14 when selecting executioners for a firing squad
15 execution?

16 A. For the UDC, the -- you guys call them
17 commissioner. We have an executive director, the
18 same position. He or she alone chooses those. I --
19 I do not know -- I saw them. I don't know their
20 names. I wasn't involved in what criteria was used.
21 I'm sure policy was followed. But he alone at the
22 time chose the firing squad.

23 Q. And does UDC practice an execution by firing
24 squad prior to a firing squad execution?

25 A. To my understanding, yes.

1 Q. Are those practices also referred to as
2 rehearsals?

3 A. Yes, they would be.

4 Q. When an execution is pending, how often are
5 practices performed prior to a firing squad
6 execution?

7 A. I do not know the exact answer to that. I
8 can tell you I know that practices, rehearsals were
9 performed. How many, I do not know. But I do know
10 that it did occur.

11 Q. Do you know if it was more frequently than
12 once a month?

13 A. I do not know that.

14 Q. Is there currently an execution by firing
15 squad scheduled in Utah?

16 A. No.

17 Q. Are there still practices for execution by
18 firing squad by UDC despite the fact there is not a
19 pending execution by firing squad?

20 A. No.

21 Q. So there is no periodic practice until a
22 firing squad execution is scheduled?

23 A. That is correct.

24 Q. Have any suggestions to the firing squad
25 execution procedure been made in your presence?

1 A. Suggestion for what?

2 Q. Suggestions to modify the firing squad
3 execution procedure?

4 A. No, it has not. Not in my presence, it has
5 not.

6 Q. Have any concerns about the firing squad
7 execution procedure been made in your presence?

8 A. No.

9 Q. On the date of an execution, what time --
10 excuse me.

11 On the date of an execution by firing squad,
12 what time does that execution take place?

13 MR. BOKOVOY: I would object to that
14 question. That would be protected information. And
15 I would instruct my client not to answer that
16 question.

17 BY MR. MITCHELL:

18 Q. When there is a UDC execution by firing
19 squad, is the condemned transported into the
20 execution chamber?

21 A. Would you repeat that question again, please?

22 Q. When there is a UDC execution by firing
23 squad, is the condemned at some point brought into
24 the execution chamber?

25 A. Yes.

1 Q. And what happens when the condemned is
2 brought into the execution chamber?

3 A. He's placed in the chair and strapped in.

4 Q. And after the condemned is strapped in, what
5 happens next?

6 A. The warden would open curtains in the
7 execution chamber, along with the division director.
8 And then the warden would go ask the condemned if
9 there was any last words.

10 Q. And when you were warden for the Gardner
11 execution, did you open the curtains and announce
12 the condemned for last words?

13 A. I did.

14 Q. Does the doctor ever enter the execution
15 chamber after the condemned is seated in the chair?

16 A. Yes.

17 Q. And does the doctor do anything once the
18 doctor enters the execution chamber?

19 A. Yeah. The doctor places a target on the
20 condemned's body.

21 Q. Where does the doctor place the target?

22 A. Over the heart.

23 Q. And what are the dimensions of this target?

24 A. I don't know. It's a guess. I can guess,
25 but I don't know.

1 Q. What would your guess be?

2 A. Eight by ten. A sheet of cotton paper, a
3 sheet of paper. Maybe ten by 12. I don't know
4 what a regular sheet of paper is.

5 Q. And it's placed over the condemned's heart?

6 A. It is.

7 Q. Why is the target placed over the condemned's
8 heart?

9 A. That would be a medical answer. I can assume
10 that, but I don't know.

11 Q. What are the executioners, the shooters,
12 trying to hit when they fire?

13 A. The center of the target.

14 Q. And would that be the heart?

15 A. It would be placed over the heart, correct.

16 Q. And is the target taped to the condemned?

17 A. It was pinned.

18 Q. In one spot or in multiple spots?

19 A. I think two. Top and bottom.

20 Q. Is there a risk that a shooter might miss the
21 target?

22 A. I guess but the risk is so minimal. You're
23 only talking 20 feet.

24 Q. So the shooters are 20 feet from the target?

25 A. Yeah, about. About, yeah.

1 Q. And does UDC take steps to address that risk?

2 A. Yes, we do.

3 Q. What steps does UDC take to address the steps
4 that a shooter might miss the target?

5 A. Are you talking about a ricochet, or what are
6 you talking -- what are you getting at? I can --

7 Q. Ricochet is one possibility. I don't know if
8 there's any other risks that UDC addresses?

9 A. Okay. Thank you. I just didn't want to go
10 down a path that you didn't want to go down. But
11 there's -- behind the chair, there's some
12 two-by-fours that are placed behind the chair to
13 absorb a slug of a bullet that's probably three or
14 four deep long-wise, long-ways up and down and then
15 sideways, and then long-ways again.

16 Behind the two-by-fours there's a
17 four-by-eight sheet of Kevlar, which is about
18 two inches thick. And behind that there is the CMU
19 wall that's totally grouted. On the side of the
20 chair there are wings of sheet plate metal that come
21 out. And along those wings there are sand bags that
22 are placed from floor to top of the wing itself to
23 absorb any -- the wings are also on an angle.

24 And if there was ever a chance of a ricochet,
25 it's my belief that the safety precautions that are

1 in place would catch or stop that ricochet from --
2 from going elsewhere.

3 Q. Are there any other safety precautions that
4 UDC has in place to address the risk of a ricochet?

5 A. Yes. We have bulletproof glass. There's
6 four witness rooms within the execution chamber
7 itself. And each of them are equipped with
8 bulletproof glass.

9 Q. And is there a certain grade that that
10 bulletproof glass has?

11 A. The one at Draper for a 50-caliber bullet.
12 So it would stop a 50-caliber or below bullet from
13 penetrating, going through the glass.

14 Q. And does that grade come from the
15 manufacturer of the glass?

16 A. It would.

17 Q. Is the same grade of bulletproof glass going
18 to be used at the USCF Facility?

19 A. I can assume, but I don't know that for sure.
20 I do know the architects know what kind of weapons
21 are used and they planned accordingly.

22 Q. Do you know if a executioner has ever shot a
23 condemned's bones at a UDC execution?

24 A. A condemned what?

25 Q. One of the bones of the condemned?

1 A. One of the bones?

2 Q. Yes.

3 A. I don't know that. No.

4 Q. Is that something UDC wants to avoid?

5 A. I don't know if I understand your question.

6 If a bullet enters a body it hits a bone. So I
7 don't know what -- what question -- I don't know --
8 I don't understand your question.

9 Q. Do you know if a bullet has ever entered one
10 of UDC's condemned and hit a rib?

11 A. I don't know that.

12 Q. Is hitting a rib something UDC would want to
13 take measures to avoid?

14 A. Never been discussed. Doesn't the rib cage
15 protect the heart? I don't know. You're getting
16 into medical terms that I don't know. It could have
17 hit a rib. I don't know.

18 Q. When the condemned is seated in the execution
19 chair, is anything placed on the condemned's head?

20 A. Yes. A hood is placed on his head.

21 Q. Is that before or after the condemned utters
22 last words?

23 A. After.

24 Q. And at this point is the condemned strapped
25 down to the chair?

1 A. He is.

2 Q. And is the condemned strapped down in the
3 chair in multiple locations?

4 MR. BOKOVOY: I'll object to that
5 question. That would be protected information. And
6 I would instruct my client not to answer that
7 question.

8 BY MR. MITCHELL:

9 Q. After the condemned gives last words, what
10 happens next?

11 A. A hood is placed on his head.

12 Q. And then after the hood is placed on the
13 condemned's head, what happens next?

14 A. The warden would go into the executioner's
15 area and tell the executive director the execution
16 may commence.

17 Q. And when you were warden for the Gardner
18 execution, did you go into the executioner's area?

19 A. I did.

20 Q. And so how many individuals were present with
21 you in the executioner's area?

22 A. Including me -- oh, boy. This -- I may be
23 wrong. I'm thinking eight.

24 Q. Would that be the seven members of the
25 execution team, the firing squad, plus yourself?

1 A. No. That would be five members of the
2 execution squad, a executive director, the DPO
3 division director, and the warden.

4 Q. And when the signal is given for the
5 execution to commence, what happens?

6 A. The executive director performs a cadence.
7 And at a predetermined time during that cadence the
8 executioners will fire their weapons.

9 Q. All five of them?

10 A. Correct. All five -- all five weapons would
11 have their trigger pulled.

12 Q. And after the trigger is pulled, is there a
13 waiting period?

14 A. I believe three minutes. Around three
15 minutes. I think that's up to three minutes, I
16 should say.

17 Q. And at the conclusion of that waiting time
18 which is up to three minutes, what happens?

19 A. The warden reenters the execution chamber and
20 escorts the doctor to the condemned's body. And the
21 doctor would deem him alive or deceased.

22 Q. And in the Ronnie Lee Gardner execution, do
23 you recall how long you waited before entering the
24 execution chamber after shots had been fired?

25 A. I do not remember that.

1 Q. How does the doctor check the condemned to
2 see if the condemned is deceased?

3 A. If I remember correctly, he checked the
4 condemned's pulse and declared him to be deceased.

5 Q. And that's Mr. Gardner you're speaking of?

6 A. Yes.

7 Q. Does UDC have a protocol in place in the
8 event the condemned is not deceased?

9 A. Yes. We would wait ten minutes. And the
10 doctor would then again -- I'm going by policy.
11 This has never happened. The doctor would once
12 again check to see if the condemned is deceased or
13 alive. If he is alive, we would go back and we
14 would perform a second volley.

15 Q. And if the condemned is deceased after the
16 first volley, what happens?

17 A. He is declared deceased. The curtains are
18 pulled. And then all kind of things go into effect.
19 The witnesses are escorted out. The tie-down team
20 enters the execution chamber, prepares the body for
21 the medical examiner to retrieve the body. And then
22 the clean-up team would enter the chamber to clean
23 up the aftermath of the execution.

24 Q. Going back to the Draper execution chamber,
25 do you know what the dimensions of that room are?

1 A. I'm thinking 20 by 24. I may be off a little
2 bit. But it's about 20 by 24. That is the
3 execution chamber itself.

4 Q. And that's feet, correct?

5 A. Yes.

6 Q. How tall are the walls in the execution
7 chamber itself?

8 A. I'm going to say 10 feet. 12 feet.

9 Q. Do you know how thick those walls are in the
10 execution chamber itself?

11 A. Just CMU walls. Cinderblock walls.

12 Q. Just one level of cinderblocks or multiple?

13 MR. BOKOVOY: I would object to that
14 question. That would be protected information. And
15 I would instruct my client not to answer the
16 question.

17 BY MR. MITCHELL:

18 Q. I think you mentioned earlier, Mr. Turley,
19 that there is Kevlar on at least one of the walls;
20 is that correct?

21 A. That is correct.

22 Q. Is the Kevlar only on one wall?

23 A. That is correct.

24 Q. And which wall is the Kevlar on?

25 A. Directly behind the chair.

1 Q. And did you say the Kevlar is
2 four-by-eight feet behind the chair?
3 A. Yes. Correct.
4 Q. Is it four feet high and eight feet wide?
5 A. Correct.
6 Q. And so behind the chair is the two-by-fours?
7 A. Correct.
8 Q. And there's how many rows of two-by-fours?
9 A. Three or four. I'm thinking four.
10 Q. And did you say they are crosshatched?
11 A. Well, they were -- the edge side first.
12 Then -- the four-inch side first, then the two-inch
13 side, then the four-inch side again at the back.
14 Q. And then after the two-by-fours, does the
15 Kevlar come next?
16 A. That is correct.
17 Q. And after the Kevlar, is it the wall?
18 A. Yeah, the cinderblock wall.
19 Q. Is there Kevlar anywhere else in the
20 execution chamber?
21 A. No.
22 Q. And the 30-caliber rifles are fired through a
23 wall; is that correct?
24 A. Not through a wall. There's a hole in the
25 wall. Yes.

1 Q. Would you call those holes portals?
2 A. Portals would be a good term.
3 Q. How many portals are there?
4 A. Two.
5 Q. And so there's five guns; is that right?
6 A. Correct.
7 Q. How many firearms are allotted to each
8 portal?
9 A. Three and two.
10 Q. And those portals are how far from the
11 execution chair?
12 A. Twenty feet.
13 Q. And they're on the opposite wall; is that
14 right?
15 A. Correct.
16 Q. And did you say there are four windows in the
17 execution chamber?
18 A. Well, there's -- for the witnesses and then
19 if there's -- there's another window for lethal
20 injection where the doctor would sit, but I don't
21 know anything about the lethal injection execution.
22 So there's five windows.
23 Q. And those are all the bulletproof windows we
24 spoke about a moment ago?
25 A. That is correct.

1 Q. Do you know if those are multilayer
2 polyurethane windows?

3 A. Polycarbonate, polyurethane, laminate,
4 whichever -- whatever they use to make bulletproof
5 glass. I'm sure it's pretty thick.

6 Q. Do you know how thick those windows are?

7 A. I'm thinking a quarter-inch. I may not be
8 correct, but that's what I'm thinking.

9 Q. Are there sound speakers in the execution
10 chamber?

11 A. Yeah, there is.

12 Q. How many speakers are in the execution
13 chamber?

14 A. I do not know that. I don't know that.

15 Q. Can witnesses hear what happens in the
16 execution chamber without a speaker?

17 A. I don't know. I have never tried it, but I
18 would believe not.

19 Q. The portal we spoke about a moment ago, what
20 are the dimensions of those portals?

21 A. They might be five feet by six inches.

22 Q. Would that be five feet long?

23 A. Yes.

24 Q. And six inches high?

25 A. Yes.

1 Q. And are those just empty spaces in the wall
2 for rifles to come through?
3 A. Correct.
4 Q. What is the execution chair made of?
5 A. Tubular steel.
6 Q. And are you able to see a photo of the
7 execution chair?
8 A. Yes.
9 Q. Is that a true and accurate photograph of the
10 execution chair?
11 A. Yes.
12 Q. And on both sides of the execution chairs are
13 those the sandbags?
14 A. Yes.
15 Q. And are those the two-by-fours behind the
16 execution chair?
17 A. Yes.
18 Q. And the execution chair you said was made of
19 tubular steel?
20 A. Correct.
21 Q. And then are those also straps that are on
22 the execution chair?
23 A. Yes, nylon straps.
24 Q. And is there a riser that the execution chair
25 is on?

1 A. Yes, it is.

2 Q. Is the execution chair bolted into that
3 riser?

4 A. Yes.

5 Q. And what is that riser made out of?

6 A. Steel.

7 MR. MITCHELL: If we can make this
8 Exhibit 2, please.

9 (WHEREUPON, a document was marked as
10 Exhibit Number 2.)

11 BY MR. MITCHELL:

12 Q. Does the chair have a metal tray for the
13 condemned's blood to flow into?

14 A. Not the chair but the platform that the chair
15 sits on does.

16 Q. And did UDC design the chair?

17 A. I'm guessing that would be the case.

18 Q. Was the chair already there when you became
19 warden?

20 A. It was.

21 Q. Will that same chair we just looked at be
22 used at the USCF Facility?

23 A. That's the plan.

24 Q. And was the metal tray purposefully designed
25 to hide the condemned's blood?

1 A. I believe so if it -- if it sloped. And if
2 there's blood that enters that it would slope down
3 into a container.

4 Q. And why was the chair designed by UDC to hide
5 the condemned's blood?

6 A. To execute a court order in the most humane
7 possible way. And so not --

8 Q. I'm sorry.

9 A. No. That's good. Go ahead.

10 Q. And does the blood drain out of the chair?

11 A. I'm not sure.

12 Q. Does the blood drain out of the tray into the
13 riser?

14 A. It -- it drains off of the sloped tray into a
15 container at the bottom of that platform.

16 Q. And is the draining of the blood designed to
17 not be visible by the witnesses?

18 A. It's designed to show the least amount
19 possible. I guess if you really looked hard, you
20 might see it, but you would have to look pretty
21 hard.

22 Q. Do you know if the chair also has black
23 fabric to hide blood flow from the chair into the
24 pan?

25 A. It does have black fabric. It has dark

1 fabric. Not the chair itself but the straps.

2 Q. And are you able to see this document that
3 I'm showing you, Mr. Turley?

4 A. I am.

5 Q. Have you ever seen this document before?

6 A. I have. It's incorrect.

7 Q. Which portions of this document are
8 incorrect? And we can go paragraph by paragraph if
9 that's easiest.

10 A. It just -- it says it's a oak chair. It's
11 not oak. It's steel. It says that the straps are
12 leather. They're not leather. They're nylon. It
13 says that there's sandbags behind the chair. We did
14 not use sandbags behind the chair. And it also says
15 that there's a sheet metal behind the chair and
16 that's incorrect. That's Kevlar. Other than that,
17 I feel that document would be correct.

18 Q. Including the sentence that the lower back
19 portion of the chair has black fabric attached to
20 hide blood flow from the chair into the pan?

21 A. Oh, no, that's not correct. I don't -- I
22 don't believe I saw that type of fabric attached to
23 the chair.

24 Q. Did you see that type of fabric anywhere near
25 the chair?

1 A. No.

2 Q. And do you know who wrote this document,
3 without giving me a name?

4 A. I have no idea. I don't even know where that
5 came from. No idea.

6 Q. But you've seen it before; is that correct?

7 A. That's correct.

8 MR. MITCHELL: If we could have that
9 marked as Exhibit 3, please.

10 (WHEREUPON, a document was marked as
11 Exhibit Number 3.)

12 BY MR. MITCHELL:

13 Q. Is there a pan that's welded into the riser?

14 A. Below the riser to catch the bodily fluids.

15 Q. What are the dimensions of that pan?

16 A. Oh, I don't know.

17 Q. What is the pan made of?

18 A. Steel.

19 Q. And when you say to catch the bodily fluids,
20 does that include blood?

21 A. That would.

22 Q. Do you know roughly how many sandbags are
23 used for an execution by firing squad?

24 A. I don't. I could count them, if you want to
25 put that picture back up. I don't know that.

1 Q. And why are sandbags used?

2 A. To -- to help alleviate the possibility of a
3 ricochet.

4 Q. And looking at Exhibit 2 again, about how
5 high are those sandbags?

6 A. I'm going to say, I don't know, five to
7 six feet.

8 Q. And are there sandbags also in the execution
9 chamber that aren't included in this photograph?

10 A. No, not that I remember. There may be one
11 behind the bottom of the wing, but I don't remember
12 exactly.

13 Q. How thick is the sheet of Kevlar?

14 A. How safe?

15 Q. Thick. I'm sorry.

16 A. Oh. I think it's two inches. It may be an
17 inch-and-a-half, but I think it's two inches. An
18 inch, two inches.

19 Q. And all of these different features of the
20 execution chamber were in place for the Gardner
21 execution; is that right?

22 A. That is correct.

23 Q. Do you know the dimensions of the room where
24 the executioners are present?

25 A. No. It's probably six feet wide by 20,

1 30 feet long.

2 Q. Is there a risk that a bullet could ricochet
3 through a portal and hit an executioner?

4 A. I guess that could happen. It would be
5 extremely unlikely.

6 Q. And what steps has UDC taken so that that is
7 extremely unlikely?

8 A. All the things we discussed.

9 Q. Any other steps?

10 A. No. Other than the executioners wear goggles
11 and headgear.

12 Q. And, similarly, could a bullet ricochet and
13 hit an observation window?

14 A. About the same a chance as that. But there
15 is bulletproof glass there. Once again, there's an
16 extra layer of protection.

17 Q. And did UDC take any other measures than what
18 we've discussed to prevent that from happening, the
19 ricochet hitting an observation window?

20 A. No. Just all that we discussed.

21 Q. And is there a possibility a bullet could
22 ricochet off of the steel chair?

23 A. I guess there's a possibility.

24 Q. To your knowledge has that ever happened?

25 A. No.

1 Q. When Ronnie Lee Gardner was executed, was
2 there blood on Mr. Gardner's jumpsuit?

3 A. There was.

4 Q. Where was that blood?

5 A. On his chest area, that I remember.

6 Q. Do you remember blood anywhere else on
7 Mr. Gardner's jumpsuit?

8 A. No. I didn't look at him that closely.

9 Q. About how much blood was on Mr. Gardner's
10 jumpsuit?

11 A. I just saw a wet spot on his jumpsuit. I
12 don't recall how big.

13 Q. Did that wet spot come through the paper
14 target?

15 A. No, not that I remember.

16 Q. And what color was Mr. Gardner's jumpsuit?

17 A. Dark blue.

18 Q. And as warden, were you authorized to select
19 the color of Mr. Gardner's jumpsuit?

20 A. I was.

21 Q. And did you, in fact, select dark blue as the
22 color for that jumpsuit?

23 A. I did.

24 Q. When UDC performs an execution by firing
25 squad, is there a possibility that a weapon could

1 malfunction?

2 A. Sure.

3 Q. And has UDC taken steps to address that
4 possibility of malfunction?

5 A. As stated previously, I know rehearsals were
6 performed. If you're asking me -- well, I -- I
7 don't really know that answer. But I know they've
8 ensured by our armorer and others that those weapons
9 were in good working on.

10 Q. Is the armorer a full time position?

11 A. For the department, correct.

12 Q. And is there more than one individual who
13 serves as armorer?

14 A. No.

15 Q. When you were warden of the Draper Facility,
16 did you consider doing the Gardner execution outside
17 instead of inside?

18 A. No.

19 Q. Why did you not consider that?

20 A. There's already a room that was built to --
21 for executions specifically.

22 Q. Any other reasons you did not consider doing
23 the Gardner execution outside?

24 A. No. That wasn't even discussed when I was
25 the warden.

1 Q. Is there a risk that one or more of the
2 shooters does not hit the target?

3 A. I guess there's a risk. But I can't imagine
4 it.

5 Q. And what steps are taken to address that risk
6 by UDC?

7 A. Those rehearsals we discussed earlier.

8 Q. Are any other measures taken to address that
9 risk?

10 A. Not that I'm aware of.

11 Q. Are you able to see my screen, Mr. Turley?

12 A. I am.

13 Q. Have you seen this document before?

14 A. I have.

15 Q. What is this document?

16 A. This is the warden prior to myself going over
17 what possibly an execution could cost back in 2003.

18 Q. June of 2003? Is that when it's documented?

19 A. No. September.

20 Q. Yes. Oh, I see that. Was this an execution
21 by firing squad or lethal injection or both?

22 A. I think it was exec- -- I think it was firing
23 squad.

24 Q. Okay. And, in fact, do you see, kind of in
25 the middle of the page, where it says possible

1 firing squad execution?

2 A. Yes.

3 Q. And do you see where there's an executioner's
4 fee that's confidential?

5 A. Yes, I do.

6 Q. And where the estimate is that supplies would
7 cost \$3,000?

8 A. Uh-huh.

9 Q. And how many man hours were estimated to be
10 necessary for this firing squad execution in 2003?

11 A. It looks like 1,180.

12 Q. 1,180?

13 A. Uh-huh.

14 Q. And do you see the statement that this is a
15 significant decrease from executions carried out a
16 decade or more ago?

17 A. I do.

18 Q. Do you have any idea how many man hours were
19 required for executions by firing squad carried out
20 in the '90s or '80s by UDC?

21 A. I have no idea.

22 Q. And do you see where the estimate of \$21,200
23 can be made for the man hour costs?

24 A. Uh-huh. Yes.

25 Q. And then there's a ballpark of 24,000 to

1 26,000?

2 A. Uh-huh.

3 Q. And do you see where the average estimated
4 cost is between 27 and a half thousand and 29 and a
5 half thousand, plus the executioner's cost?

6 A. Yep.

7 Q. Do you know how many man hours it took to
8 conduct Mr. Gardner's execution when you were
9 warden?

10 A. I don't recall. I'm sure I saw that figure,
11 but I don't recall.

12 Q. Do you estimate that it was more or less than
13 the 1,180 mentioned here?

14 A. I would suspect it's -- would be in the same
15 ballpark.

16 Q. And do you know whether executions by firing
17 squad in Utah still require the same amount of man
18 hours?

19 A. They would.

20 Q. Are some of those employees paid
21 time-and-a-half?

22 A. Most would be, if not all.

23 MR. MITCHELL: And if we can have that
24 marked as -- I think we're on Number 4.

25 (WHEREUPON, a document was marked as

1 Exhibit Number 4.)

2 BY MR. MITCHELL:

3 Q. How much would it cost UDC to perform an
4 execution by firing squad today?

5 A. Well, the hourly rate would be more so that
6 final tally of the cost would be -- would be more.
7 But that would be, you know, whatever other
8 equipment needs to be purchased I'm sure the cost
9 would be higher. But the same teams and other
10 things like that I'm guessing would be the same.

11 MR. MITCHELL: Can we go off record real
12 quick.

13 (Short break.)

14 BY MR. MITCHELL:

15 Q. Mr. Turley, we just took a break. Did you
16 speak with anyone during that break?

17 A. No.

18 Q. Did you read anything during that break?

19 A. No.

20 Q. And Mr. Turley, are you able to see my
21 screen?

22 A. Yes.

23 Q. Do you know what this document is?

24 A. That's the execution redacted policy for the
25 UDC.

1 Q. And do you see the date at the bottom of when
2 it was revised?

3 A. I do.

4 Q. And do you see where it says June 10th, 2021?

5 A. Uh-huh.

6 Q. Is this the current execution policy for UDC?

7 A. It is.

8 Q. And it is the execution policy for executions
9 both by firing squad and lethal injection; is that
10 right?

11 A. Correct.

12 Q. Okay. And do you know if this manual was in
13 effect when Mr. Gardner was executed in 2010?

14 A. It was.

15 Q. Why was the manual revised in June of 2010?

16 A. I assume for the upcoming execution.

17 Q. And do you know what revisions were made for
18 the upcoming execution?

19 A. I do not.

20 Q. Do you know what sources UDC consulted to
21 revise this manual in June of 2010?

22 A. I do not.

23 Q. And do you know what sources UDC consulted to
24 create this manual?

25 A. I do not.

1 Q. And do you know when the first version of
2 this manual was created?

3 A. I do not.

4 MR. MITCHELL: If we can have this
5 marked as Exhibit 5.

6 (WHEREUPON, a document was marked as
7 Exhibit Number 5.)

8 BY MR. MITCHELL:

9 Q. Do you see here that I'm on page 16?

10 A. Yes.

11 Q. And do you see on H1a where it says: The
12 executive director/designee, DIO director, or warden
13 shall be responsible for identifying, selecting, and
14 obtaining the services of the executioners?

15 A. I do.

16 Q. How does UDC select executioners?

17 A. I do not know that. The executive director
18 did it all.

19 Q. And do you know if it is the executive
20 director who determines whether someone is an
21 executioner or a back-up executioner?

22 A. In this case it was him totally.

23 Q. I'm sorry, can you say that one more time?

24 A. In the Rodney Lee Gardner execution it was
25 the executive director. He did it all by himself.

1 Q. And do you see in the H1c where it says: The
2 warden shall be responsible for designating those
3 persons necessary to carry out and support the
4 execution?

5 A. I do.

6 Q. As warden, did you decide who to designate to
7 carry out the Gardner execution?

8 A. Not the executioners, but the support teams I
9 was.

10 Q. And what are considerations that you've had
11 when you were choosing who to designate to carry out
12 the execution of Ronnie Gardner?

13 A. I just went through names. If I felt good
14 about it I chose them. If I didn't I didn't.

15 Q. Did you choose only people you knew
16 personally?

17 A. No.

18 Q. You chose people you did not know personally?

19 A. Sure, yeah. (inaudible)

20 THE REPORTER: Please say that again.

21 THE WITNESS: No, nothing.

22 BY MR. MITCHELL:

23 Q. Did you also choose people that you knew
24 personally, though?

25 A. Oh, sure. Yeah. Well, I actually know all

1 the staff, but it depends on what level of personal.

2 Q. And turning to page 34 B1b. Is this where
3 you are given authority to choose the color of the
4 jumpsuit?

5 A. Yes.

6 Q. And why did you select the dark blue?

7 A. To hide if there's any chance of blood coming
8 through. To hide that as much as possible. To make
9 him more humane.

10 Q. How does hiding the blood make the execution
11 more humane?

12 A. Well, if you have a white jumpsuit, it would
13 be more pronounced. In a dark jumpsuit you would
14 just see a wet area.

15 Q. Had you witnessed any executions by firing
16 squad prior to the Gardner execution?

17 A. No. I mean, not by -- no. No, I hadn't. I
18 had not.

19 Q. And do you see here on page 40B2 where it
20 says: It is the policy of the department that the
21 condemned inmate shall be examined by a licensed
22 physician following the administration of the fatal
23 drugs or the first volley by the firing squad to
24 ensure that death has occurred?

25 A. I can see that.

1 Q. And is that position at least either an
2 employee or agent of UDC?

3 A. Not necessarily.

4 Q. And are there any qualifications the
5 physician has to have to make the determination
6 whether the inmate is deceased?

7 A. I don't know that for sure.

8 Q. Do you have a guess?

9 A. What's that? A guess? A licensed physician,
10 an MD. But maybe it could be a PA. I don't know
11 that.

12 Q. And after the first volley, does UDC wait a
13 certain amount of time before the condemned is
14 examined?

15 A. Up to three minutes.

16 Q. And is that here on page 41 under A1?

17 A. I don't know. What do you know? I was
18 right. Yeah. Yeah.

19 Q. And if there are signs of life, what does the
20 physician do?

21 A. If there was -- repeat your question, please,
22 sir.

23 Q. If the physician takes the condemned's vital
24 signs and there are signs of life, what does the
25 physician do?

1 A. I think he waits and he checks him
2 periodically up to ten minutes. And then if he's
3 still breathing or alive after ten minutes, the
4 second volley is performed. We didn't have to do
5 that. But I'm reading there 60 seconds, every 60
6 seconds, which I would assume would be the case, but
7 we didn't have to do that.

8 Q. You didn't have to do that for the Gardner
9 execution?

10 A. No. No.

11 Q. And do you see here in C where it says:
12 After a maximum of ten volleys from the first
13 volley, if there are still signs of life, then the
14 physician will inform the warden?

15 A. Yeah.

16 Q. Do you know if UDC has ever fired a second
17 volley in a firing squad execution?

18 A. I do not know that information.

19 Q. Do you recognize this document, Mr. Turley?

20 A. I do.

21 Q. And is that page 46? Are you able to see if
22 that's at page 46?

23 A. Yeah.

24 Q. And what's this document?

25 A. It's a time line of when things occur.

1 Q. Okay. And so can you walk me through this?
2 For instance, where it says five, is that at minute
3 five?

4 A. I don't know that for sure. I am assuming it
5 is. Five minutes into the execution procedures, go
6 out and open the curtains. After that, the
7 condemned is offered if he would like to make his
8 statement, a last words. Then that's when -- after
9 that we go in -- a hood is put on the condemned's
10 head and we go back and commence the execution.

11 Q. And when the execution is commenced, is that
12 then signified here by the minute eight?

13 A. Yes.

14 Q. And then minute 11 would be when the doctor
15 is brought into the execution chamber?

16 A. Yeah.

17 Q. And then minute 14 would be when the doctor
18 pronounces death?

19 A. Correct.

20 Q. How long does this process take at a firing
21 squad execution?

22 A. How long?

23 Q. Yes.

24 A. Looks to me like ten minutes.

25 Q. And that's if the first volley kills within

1 the first three minutes; is that right?

2 A. Correct.

3 Q. And also assuming that there are no signs of
4 life when the physician does the physician's
5 examination?

6 A. Correct.

7 Q. Does each -- and then I'm on page 54. Does
8 each of the firing squad executioners have to
9 demonstrate proficiency with the firearms used in
10 any UDC firing squad execution?

11 A. They did in this case.

12 Q. And how did they demonstrate proficiency?

13 A. That I don't know. I know they were taken
14 out and they demonstrated proficiency and that's all
15 I know.

16 Q. Do you see here on page 54, where it says:
17 Under conditions substantially similar to those of
18 the execution chamber, proficiency shall be
19 exhibited by?

20 A. Uh-huh.

21 Q. And is that how UDC determines proficiency?

22 A. That is correct.

23 Q. Firing each weapon at least 21 feet away and
24 hitting the target?

25 A. Yeah. That's what I'm reading. I wasn't

1 there and have never seen that, but what's what I'm
2 reading.

3 Q. And do you see in 4b where it says: During
4 the proficiency test failure to accurately hit the
5 specified target with one round from each weapon
6 fired shall disqualify the officer?

7 A. Uh-huh.

8 Q. So does a single miss disqualify someone?

9 A. I do not know that. I have no -- nothing to
10 do with this piece.

11 Q. So you don't know if anyone missed the target
12 when attempting to demonstrate proficiency for the
13 Gardner execution?

14 A. I do not.

15 Q. And do you see here on page 55, where it
16 says: The executive director and/or warden will
17 contact those that are chosen for the firing squad?

18 A. I do.

19 Q. And do you see under D1a where there's the
20 possibility for someone to rescind an offer to
21 participate?

22 A. Uh-huh.

23 Q. Do you know if anyone has ever rescinded an
24 offer to participate in a firing squad execution?

25 A. I do not know. I have nothing to do with

1 this piece at all.

2 Q. So it is the executive director who does
3 that; not you as warden?

4 A. That is correct.

5 Q. Okay. And we talked earlier. You said UDC
6 uses live rounds of ammunition during an execution
7 by firing squad; is that right?

8 A. That is correct.

9 Q. Okay. And was it four live rounds?

10 A. Four live rounds.

11 Q. And one blank round?

12 A. Correct.

13 Q. Does the shooter with blank rounds know that
14 he or she has the blank rounds?

15 A. I don't know that.

16 Q. You don't know whether the shooter knows that
17 shooter has a blank round?

18 A. No. Well, no. They are -- the -- the answer
19 to your question is, those rounds are loaded by I
20 don't know who but they are not -- they can go to
21 any weapon that are date -- they are assigned a
22 weapon when they walk in the room. They do not know
23 if that weapon has a blank or a live round in it.

24 Q. So does someone that's not a shooter load the
25 weapons?

1 A. No. Oh, yes. That is correct.

2 Q. Is the person who loads the weapons a member
3 of the executioner's team?

4 A. No.

5 Q. What is the role of the person who loads the
6 firearms?

7 A. I don't know. I didn't do that.

8 Q. And you weren't present when it happened?

9 A. No.

10 Q. Do you see at the bottom of page 88 where it
11 says: Care shall be taken to preclude any knowledge
12 by the members of the firing squad of who is issued
13 the weapon with two blank cartridges?

14 A. Uh-huh.

15 Q. And is there any other -- are there any other
16 steps taken to prevent the shooter from knowing the
17 shooter has the blanks that you're aware of?

18 A. Not that I'm aware of.

19 Q. Do you know what a dry fire is?

20 A. Yes.

21 Q. What is a dry fire?

22 A. When your weapon is not loaded and you pull
23 the trigger.

24 Q. And does UDC conduct dry fires prior to an
25 execution by firing squad?

1 A. If I remember right policy states so but I'm
2 not -- I don't know if they did or not.

3 Q. And what steps does UDC take to determine
4 whether equipment is in good working condition?

5 A. I don't know. I have nothing to do with
6 that.

7 Q. In the event firearms aren't in good working
8 condition, are there back-up firearms?

9 A. I believe so. I'm not sure, though.

10 Q. And are the executioners instructed to aim at
11 the paper target when executing an inmate by firing
12 squad?

13 A. I do not know that.

14 Q. When the target is placed on the inmate,
15 where does UDC want the executioners to strike the
16 inmate with bullets?

17 A. A huge assumption on my part. I would have
18 guessed the target. Because why place the target on
19 there?

20 Q. And what organs are behind the target?

21 A. The heart. That's all I know.

22 Q. If a second volley is commenced, what happens
23 after the second volley?

24 A. I don't know. I've never had to do it. I
25 could read it, but I've never had to do one.

1 Q. Can you see here on page 90?

2 A. Uh-huh.

3 Q. Where it says: If on a final check, the
4 vital signs are detected, the warden shall order the
5 physician to exit the chamber?

6 A. Uh-huh.

7 Q. And then do you see further down in D, where
8 the executive director or the director's designee
9 would have ordered the firing squad team leader to
10 make weapons ready for fire?

11 A. Yeah. The same thing would happen as the
12 first volley.

13 Q. How many volleys is UDC prepared to fire if
14 an inmate continues to demonstrate vital signs, or
15 demonstrate life?

16 A. Each weapon is loaded with two live rounds.

17 Q. And so if an inmate was still alive after the
18 second volley, what would happen?

19 A. They would reload their weapons.

20 Q. And fire a third time?

21 A. Yes. If that's needed.

22 Q. And a fourth if needed?

23 A. Sure.

24 Q. Do you see here page 239, training and
25 briefing?

1 A. 239? Oh, gosh. Go ahead.

2 Q. Are you able to see that?

3 A. Yeah, I can see it. I thought it was a
4 hundred and something.

5 Q. Now, is it UDC policy that execution staff
6 receive the necessary training to carry out their
7 duties?

8 A. That is correct.

9 Q. And here in number four, does UDC consider --
10 let me do it this way.

11 Does UDC consider the functions necessary to
12 execute someone by firing squad to involve difficult
13 timing?

14 A. Well, we train, train, train in all aspects
15 of every area of the execution. I know that much.

16 Q. Do you see here where it says: An execution
17 by firing squad involves a function which involves
18 difficult timing?

19 A. I do.

20 Q. Why does UDC consider the timing difficult?

21 A. I don't know.

22 Q. Is there anything difficult about the timing?

23 A. Timing for what?

24 Q. Firing the firearms, for instance?

25 A. So are we talking the execution?

1 Q. Yes.

2 A. The executioners?

3 Q. Yes. Under B policy, it says: It is the
4 policy of the department and staff and others
5 involved in carrying out an execution and then it
6 has several subpoints, including rehearsal
7 practice --

8 A. Yeah. I didn't -- I can assume. Do you want
9 me to assume?

10 Q. Sure.

11 MS. NELSON-MAJOR: Objection. I would
12 ask the witness not to assume.

13 BY MR. MITCHELL:

14 Q. You can speculate.

15 A. There's a cadence. Whether you go a hundred
16 and 99, 98, 97 or 1, 2, 3, 4 at a certain time in
17 that cadence, from what I gathered, the executioners
18 fired their weapons.

19 The difficult timing would come in if -- if
20 they had a -- let's say they started at 80 and they
21 were supposed to shoot at 84 and someone shot at 81
22 and someone shot at 82 and someone shot at 83 and
23 someone shot at 84 and someone shot at 85. The
24 difficult timing would be all shooting at the same
25 time.

1 Q. And do you know if that's ever happened,
2 where people shot at different cadences?

3 A. I don't know that's ever happened.

4 Q. And do you see the next line down, where it
5 says: UDC considers the functions necessary to
6 execute someone by firing squad to involve a high
7 degree of skill?

8 A. I do.

9 Q. Do you know why UDC considers the functions
10 necessary to execute someone by firing squad to
11 involve a high degree of skill?

12 A. Well, you would have to be a peace officer in
13 the State of Utah to do that. And in order to be a
14 peace officer, you have to prove that you're
15 effective and efficient on shooting of a firearm.

16 Q. Anything else that would require a high
17 degree of skill in a firing squad execution by UDC?

18 A. No.

19 Q. And do you see the line after that where it
20 says that: UDC considers the functions necessary to
21 execute someone by firing squad to involve
22 procedures of a highly critical nature?

23 A. Uh-huh.

24 Q. What procedures of a highly critical nature
25 are involved in executing someone by firing squad?

1 A. Well, you must be proficient on your weapons.
2 You must have good hearing, good eyesight, in order
3 to carry out the court order which has been given to
4 the Department of Corrections.

5 Q. What other procedures of a highly critical
6 nature are carried out in an execution by firing
7 squad?

8 A. I think the entire process is highly
9 critical. I think every piece of -- from the
10 observation team, to the clean-up team, to the
11 tie-down team, every piece is critical. It's we
12 practice, we train for days before, hours upon
13 hours. And we practice that because I think the
14 whole operation is a critical operation. It's very
15 consuming, very time intensive.

16 Q. And how many days before an execution, a
17 firing squad execution, does UDC staff practice?

18 A. We get a order from the court 30 days prior
19 to.

20 Q. And then in those 30 days until the
21 execution, how many days are there rehearsals?

22 A. Almost daily.

23 Q. And how many hours do those rehearsals last?

24 A. Oh, it varies. It varied. I couldn't say
25 how many or -- how often is usually daily. But some

1 could be a half hour. Some could be three hours,
2 depending on what team did what.

3 Q. And is it the same team members at each of
4 those rehearsals?

5 A. Yes.

6 Q. Do you see the next line where it says: UDC
7 considers the functions necessary to execute someone
8 by firing squad to involve moderately difficult or
9 complex interaction with others?

10 A. Yeah.

11 Q. Why does executing someone by firing squad
12 involve moderately difficult or complex execution
13 with others?

14 A. I don't know if that's the media they are
15 referring to or who. I don't know. I don't know.

16 Q. And do you see on the next page, where it
17 says that: UDC considers the functions necessary to
18 execute someone by firing squad to require
19 instructions or receive instructions on crisis
20 management assistance?

21 A. Uh-huh.

22 Q. Why would individuals executing someone by
23 firing squad need instructions on crisis management
24 assistance?

25 A. Well, we -- any member of the Department of

1 Utah State Corrections can go to a counselor. The
2 name escapes me of those that are used, but if they
3 feel like they need therapy and it's -- that
4 assistance is offered to them.

5 Q. And so is it therapy and counseling that is
6 meant by crisis management assistance?

7 A. That's what I'm reading into it.

8 Q. And do you see here on page 240 where it says
9 that: Each member or participant of the execution
10 team will receive a post order?

11 A. Uh-huh.

12 Q. And do you see where it says post order shall
13 include any emergency role under 2f?

14 A. Uh-huh.

15 Q. What is an emergency role?

16 MR. BOKOVOY: I would object that this
17 is protected information. And I would instruct my
18 client not to answer the question.

19 BY MR. MITCHELL:

20 Q. Do you recognize the document I'm showing
21 you, Mr. Turley?

22 A. I do.

23 Q. Is this a photograph of part of the execution
24 chamber at the Draper Facility?

25 A. Yes.

1 Q. And are those the portals we discussed
2 earlier?

3 A. Yes.

4 Q. And is this a true and accurate depiction of
5 that wall in the Draper Facility execution chamber?

6 A. Yes.

7 MR. MITCHELL: If we can make this
8 Exhibit 6, please.

9 (WHEREUPON, a document was marked as
10 Exhibit Number 6.)

11 MS. NELSON-MAJOR: I would just ask that
12 Mr. Turley and Mr. Bokovoy refrain from discussing
13 anything in the middle of his testimony unless
14 they're actually talking about an assertion of
15 privilege that's been made.

16 BY MR. MITCHELL:

17 Q. And Mr. Turley, do you see this document
18 that's been marked UDC 000990?

19 A. I do.

20 Q. Have you seen this document before?

21 A. I have.

22 Q. What is this document?

23 A. I don't know. I would have to review it. I
24 read it a couple of weeks ago.

25 Q. Okay. Does it appear to be an email?

1 MS. NELSON-MAJOR: Objection.

2 BY MR. MITCHELL:

3 Q. I'm sorry, what was your answer?

4 A. Yes.

5 Q. And do you know who Steven Gehrke is?

6 A. I do.

7 Q. Is that pronounced Gehrke?

8 A. It is.

9 Q. Who is Stephen Gehrke?

10 A. At the time he was our public information
11 officer.

12 Q. And at the time, would that be January 29,
13 2014?

14 A. No. No. Yeah. January 29, 2014 he was our
15 public information person.

16 Q. For the UDC?

17 A. Correct.

18 Q. And do you see where Mr. Gehrke said that an
19 article cites the number at 165,000?

20 A. Correct.

21 Q. And is that number cited in the article for
22 costs for the Ronnie Lee Gardner execution in 2010?

23 MS. NELSON-MAJOR: Objection.

24 BY MR. MITCHELL:

25 Q. You can answer.

1 A. I'm assuming that is. Yes.

2 Q. And do you see the line that says: The
3 majority of those costs went to pay staff for the
4 increased need for their security presence and
5 overtime wages?

6 A. Correct.

7 Q. Do you believe this number is accurate?

8 MS. NELSON-MAJOR: Objection.

9 THE WITNESS: I have no reason not to.

10 MR. MITCHELL: Let me have this marked
11 as Exhibit 7, I believe.

12 (WHEREUPON, a document was marked as
13 Exhibit Number 7.)

14 MR. MITCHELL: If we could take just a
15 five-minute break maybe until -- let's make it nine
16 minutes. Nine-minute break until noon Central, 11
17 Mountain, and one Eastern, please.

18 (Short break.)

19 BY MR. MITCHELL:

20 Q. Mr. Turley, is execution by firing squad
21 authorized by Utah's legislature?

22 A. It is.

23 Q. And do you know how long execution by firing
24 squad has been authorized by Utah's legislature?

25 A. I do not know that.

1 Q. At the time of the Gardner execution, was
2 execution by firing squad authorized by Utah's
3 legislature?

4 A. It was.

5 Q. Does UDC execute someone by a method not
6 expressly authorized by the legislature?

7 A. No.

8 MR. MITCHELL: Mr. Turley, thank you so
9 much for your time. Those are all of my questions.
10 Ms. Nelson-Major may have some questions for you.

11 THE WITNESS: Thank you very much.
12

13 EXAMINATION

14 QUESTIONS BY MS. NELSON-MAJOR:

15 Q. I was about to say good afternoon but I have
16 been all tied up with the time zone, so good
17 morning, good afternoon, wherever you are in the
18 time zone continuum. So Mr. Mitchell asked you
19 about what you did to prepare for this deposition,
20 and you said that you consulted deposition
21 documents.

22 Were you referring to transcripts of
23 depositions that you had given in previous cases?

24 A. Yes. Not plural. One.

25 Q. One. You also said that you had reviewed the

1 protocol in place for UDC's use in executions; is
2 that right?

3 A. I read that policy that he went through,
4 correct.

5 Q. Outside of those two sets of documents, were
6 there any other documents that you reviewed?

7 A. Yes. Some of those in which Mr. Mitchell put
8 on the screen today.

9 Q. What other documents that Mr. Mitchell did
10 not put on the screen did you review in anticipation
11 of this deposition?

12 A. The same ones I mentioned earlier. A media
13 packet. Let's see. I think that might be all.
14 There may be -- there was an email but I think that
15 there's a -- a survey taken we give to staff after
16 that was not presented. But other than that, I
17 think that's it. A redacted version of the
18 execution chamber. But other than that, that's
19 everything.

20 Q. The survey you referred to, was it a blank
21 form, or was it filled out?

22 A. It's a blank form.

23 Q. In addition to talking with Mr. Bokovoy, did
24 you speak to anyone else in preparation for your
25 deposition?

1 A. We did -- I did call a Mr. David Worthington.
2 Now I remember this. I just asked him when the
3 execution chamber was built.

4 Q. Who is David Worthington?

5 A. He used to be a director of audit and at the
6 time -- I don't remember his -- what his title was
7 back then but -- and he didn't even know. He
8 thought it was a different day. And I come to find
9 out -- in reading these documents, I found out it
10 was 1998.

11 Q. Besides discussing the date on which the
12 facility was constructed, did you talk about
13 anything else with Mr. Worthington?

14 A. No.

15 Q. Did you talk to Mr. Mitchell before this
16 deposition?

17 A. I actually -- I didn't talk to him per se. I
18 was in a room -- I don't remember when -- this week
19 or last week, when Mr. Bokovoy and Mr. Mitchell were
20 talking. Mr. Mitchell knew I was in the room and
21 that did occur.

22 Q. That was a telephone conversation?

23 A. Yeah. It was a Zoom.

24 Q. And what was discussed at that meeting?

25 A. You know, I don't remember per se. It was

1 just questions, just making sure everything was on
2 target for today.

3 Q. How long was that meeting?

4 A. I don't even know. Ten minutes. Fifteen
5 minutes. I don't know for sure.

6 Q. Did Mr. Mitchell discuss with you what he
7 intended to ask you during this deposition?

8 A. Not that I recall.

9 Q. Did you discuss the documents that you might
10 have in your possession related to this deposition?

11 A. No.

12 Q. Did you review any documents during that Zoom
13 call?

14 A. No.

15 Q. Was there anyone present on that call besides
16 Mr. Mitchell and Mr. Bokovoy and yourself?

17 A. Not that I remember. Like I say, I was not
18 looking at the screen. I was -- I was sitting back,
19 couldn't even see the computer screen.

20 Q. Besides the Zoom you had with Mr. Mitchell
21 and Mr. Bokovoy, did you speak with anyone else at
22 the Attorney General's Office in Tennessee?

23 A. No.

24 Q. What about the Tennessee Department of
25 Correction?

1 A. No.

2 Q. Were you the person who gathered that set of
3 documents that you just ran me through at the
4 beginning?

5 A. No.

6 Q. Do you know who gathered that set of
7 documents?

8 A. I received them from Mr. Bokovoy.

9 Q. You told us that the chair used in the firing
10 squad executions was already inside the Draper
11 Facility when you became warden; is that right?

12 A. Correct.

13 Q. Do you know whether that chair had been used
14 in an execution prior to Mr. Gardner's execution in
15 2010?

16 A. I do not.

17 Q. I wanted to ask you a couple of questions
18 about the Gardner execution in particular.

19 Did you see Mr. Gardner move after he was
20 struck by the first volley?

21 A. I saw his head slump.

22 Q. Was that the only movement you observed after
23 the first volley?

24 A. That is correct.

25 Q. Did you hear Mr. Gardner make any noises

1 after the first volley?

2 A. No.

3 Q. Did you observe anything else that would
4 suggest to you that Mr. Gardner experienced pain?

5 A. No.

6 Q. And he was pronounced dead after that first
7 volley?

8 A. He was.

9 Q. After the Gardner execution, did you hold any
10 sort of meeting or debrief?

11 A. I did not. Executive Director Patterson did.

12 Q. Were you present at that meeting?

13 A. I was.

14 Q. Who else was present at that meeting?

15 A. Those that took part in the support role of
16 the execution.

17 Q. Did that include the members of the firing
18 squad itself?

19 A. No.

20 Q. Did anyone express any concerns about how the
21 Gardner execution went at that meeting?

22 A. Not that I recall, no.

23 Q. Did you have any discussions with the firing
24 squad after that execution took place?

25 A. I did not. I never spoke one word to them,

1 before other after.

2 Q. Did you have any concerns with how the
3 Gardner execution went?

4 A. No, absolutely not.

5 Q. Did you have any concerns about safety?

6 A. No, absolutely not.

7 Q. Did you have any concerns about whether
8 Mr. Gardner experienced pain or suffering?

9 A. I did not.

10 Q. Do you know where executions were conducted
11 prior to the construction of the Draper Facility?

12 A. Just the documents that I have read.

13 Q. And you testified that the Draper Facility is
14 intended for use in both lethal injection and firing
15 squad executions; is that right?

16 A. That is correct.

17 Q. Was there anything to your knowledge that UDC
18 did differently in constructing that building had it
19 been intended only for use in lethal injections?

20 MR. MITCHELL: Object to the form.

21 BY MS. NELSON-MAJOR:

22 Q. You can answer, Mr. Turley.

23 A. Yeah. You have to have the portals for the
24 rifles and ballistic windows and Kevlar behind those
25 things we saw in the picture of the chair.

1 Q. You previously testified that the dimensions
2 of the chamber were 20 by 24 feet; is that right?

3 A. Approximately, correct. I didn't take a tape
4 measure but I'm assuming -- guessing that's what it
5 is.

6 Q. Do you know why those dimensions were chosen?

7 A. I do not.

8 Q. Will those dimensions be replicated in the
9 new chamber currently being built?

10 A. That is correct.

11 Q. Was there any discussion about expanding the
12 size of the chamber in the new facility?

13 A. No.

14 Q. So in your opinion, it is of an appropriate
15 dimension for use in a firing squad execution?

16 A. Yes.

17 Q. Do you know how much it cost to construct the
18 current facility at Draper?

19 A. I do not.

20 Q. Do you know how much UDC is spending to
21 construct the new facility?

22 A. I can tell you it is one room inside of a
23 huge building. And so if it's \$500 a square foot
24 and the execution chamber is 3,000 square feet, it's
25 \$1.5 million. It would be like asking how much does

1 your office cost to build. It's in a building.

2 You just have to go by -- by what the square
3 footage of the entire building would cost and then
4 how much room is that particular execution chamber.
5 That's it -- it could be high. It could be low.

6 Q. And just to clarify, when you say \$500 per
7 square foot, you're not saying that's the actual
8 cost to construct the chamber?

9 A. Our architects told us \$500 a square foot.
10 And the execution chamber is 3,000 square feet. So
11 if you look at it that way, the cost would be
12 \$1.5 million to build it.

13 Q. And when you say 3,000 square feet, that's
14 not, obviously, just the execution chamber itself?

15 A. No. That's the whole area. That's the
16 witness rooms, the bathrooms, the cell where the
17 condemned goes, the executioner's room. That's
18 all-inclusive.

19 Q. Do you know how much it cost to construct the
20 chair?

21 A. I have no idea.

22 Q. Do you know how much UDC spent on the
23 sandbags?

24 A. I do not.

25 Q. Do you know how much UDC spent on the Kevlar

1 backing?

2 A. I have no idea.

3 Q. Do you know how much UDC spent on the riser?

4 A. I don't.

5 Q. Do you know how much UDC spent acquiring the
6 firearms that are used in firing squad executions?

7 A. I do not.

8 Q. Is there someone at UDC who would know the
9 answer to those questions?

10 A. Not currently that I'm aware of.

11 Q. Would those numbers be documented in records
12 somewhere?

13 A. I have no idea. I mean, it's just a normal
14 chair. You can go buy metal and weld the chair.
15 You need 50 feet of tubular steel to weld it. How
16 much is that? I don't know. It's the piece of
17 steel that the riser sits on. How much does steel
18 cost? And you weld it together. I mean, I don't
19 know. All those things were here long before I was.

20 Q. Is the chair and riser, the steel that you
21 just mentioned, is that specialized in any way?

22 A. I don't think so. I think it's just tubular
23 galvanized steel.

24 Q. That one might be able to purchase from a
25 construction supply store?

1 A. That's what I would --

2 MR. MITCHELL: Speculation.

3 THE WITNESS: That is speculation.

4 That's what I would assume.

5 BY MS. NELSON-MAJOR:

6 Q. What about the two-by-fours behind the chair?

7 Are those specialized in any way?

8 A. No.

9 Q. Regular two-by-fours you might purchase,
10 again, at a construction store?

11 A. Yes.

12 MR. MITCHELL: Same objection.

13 BY MS. NELSON-MAJOR:

14 Q. Can you describe to me how the chamber would
15 be prepared differently for a lethal injection
16 execution as compared to a firing squad execution?

17 A. I cannot. I have never participated in one.

18 Q. Is the firing squad chair stored in the
19 execution chamber when not in use?

20 A. Sometimes it is. Sometimes it isn't.

21 Q. Where is it stored when it isn't stored in
22 the execution chamber?

23 A. Just in another area of the institution.

24 Q. Are the firearms that are used by the firing
25 squad used for any other purpose?

1 A. No.

2 Q. Why not?

3 A. I don't know. That's just always been that
4 way.

5 Q. Are new firearms purchased for each firing
6 squad execution?

7 A. No.

8 Q. Do you know the total cost of the ammunition
9 used in a firing squad execution?

10 A. I don't know the exact cost.

11 Q. I'm just looking through my notes because I
12 don't want to repeat what Mr. Mitchell has covered.
13 So if you'll bear with me a moment, I'm trying to
14 expedite this.

15 A. That's fine. If I just may say, I wasn't
16 involved in costs of stuff. That wasn't my purview.
17 Each state does it different.

18 Q. And you said that you're currently, and
19 correct me if I'm wrong, division director of
20 special projects?

21 A. Correct.

22 Q. And you're currently overseeing the
23 construction of a new UDC facility?

24 A. Yeah. Currently making sure the safety
25 protocols are implemented in the new facility.

1 Q. But you're not involved in the financial
2 aspects of that construction project at all?

3 A. Well, yeah, to a certain extent. I mean, I
4 do have to sign purchase orders, et cetera.

5 Q. Are you responsible for signing purchase
6 orders related to the construction of the new
7 execution chamber?

8 A. That building that it was in, yes. I have to
9 approve that, but it didn't say cost of the
10 execution chamber is X. It was just it's part of
11 the room inside of the building.

12 Q. Will the riser from the Draper Facility be
13 used in the new facility that is currently being
14 constructed?

15 A. That the chair sits on?

16 Q. Correct.

17 A. Yeah, that's the plan.

18 Q. Will there be any alterations made to the
19 riser?

20 A. That has not been discussed.

21 Q. What about to the chair? Any alterations to
22 the chair?

23 A. That has not been discussed.

24 Q. In your opinion, do there need to be any
25 alterations to the chair and riser?

1 A. No.

2 Q. I want to ask you a couple of questions about
3 the sub-teams you talked about with Mr. Mitchell.

4 You testified that there are eight people who
5 serve as witness escorts in a firing squad
6 execution; is that right?

7 A. Yes.

8 Q. Does that number change if the execution is
9 to be carried out by lethal injection?

10 A. I don't know. I have never participated in a
11 lethal injection execution.

12 Q. Who decides how many people are part of the
13 witness escort team during the firing squad
14 execution?

15 A. I could have been. And I assigned two per
16 team.

17 Q. Does the protocol set the number of people to
18 be involved?

19 A. No. I don't think it does. I never read
20 that.

21 Q. Do you know how many people are on a tie-down
22 team in a lethal injection execution?

23 A. I think there was five.

24 Q. Do you know whether the observation team is
25 the same size for a lethal injection execution and a

1 firing squad execution?

2 A. I do not.

3 MR. MITCHELL: Objection; outside the
4 scope of the notice.

5 BY MS. NELSON-MAJOR:

6 Q. You can answer, Mr. Turley.

7 A. I do not.

8 Q. Do you know whether the clean-up team is the
9 same size for a lethal injection execution and a
10 firing squad execution?

11 MR. MITCHELL: Same objection.

12 THE WITNESS: Yeah. I have never taken
13 part in any part of a lethal injection execution so
14 I would have no idea.

15 BY MS. NELSON-MAJOR:

16 Q. For the Gardner execution, were you the
17 person who decided the number of people on the
18 perimeter team?

19 A. I'm sure I did that with others in the room.
20 But I would have been involved in that, yes.

21 Q. Was there anything specific to the fact that
22 the execution was to be carried out by a firing
23 squad that you considered in setting the size of
24 that perimeter team?

25 MR. MITCHELL: Objection; form.

1 THE WITNESS: No. I think you're trying
2 to decipher between lethal and -- we didn't even
3 discuss it. We just discussed what we need for
4 perimeter security.

5 BY MS. NELSON-MAJOR:

6 Q. Was there anything about the fact that it was
7 going to be a firing squad execution that made you
8 increase the size of the perimeter team?

9 A. No.

10 MR. MITCHELL: Same objection.

11 BY MS. NELSON-MAJOR:

12 Q. Was there a ricochet at the Gardner
13 execution?

14 A. No.

15 Q. Did anyone at UDC ever discuss with you there
16 being a ricochet at the prior firing squad
17 execution?

18 A. No.

19 Q. You mentioned that the firing squad wears
20 headgear. Can you describe the headgear to me?

21 A. Goggles and ear muffs. Eye protection and
22 ear muffs.

23 Q. Do you recall the memo that Mr. Mitchell
24 showed you that estimated a need of 1,180 man hours
25 for an execution?

1 A. Yes.

2 Q. Do you know how that number was determined?

3 A. I do not.

4 Q. Do you know who came up with that number?

5 A. I guess Warden Clint Brill (phonetic) did.

6 Q. How many hours are the firing squad members
7 themselves on site for an execution?

8 MR. BOKOVOY: I am going to object to
9 that. We would consider that to be protected
10 information. And I would instruct my client not to
11 answer that question.

12 BY MS. NELSON-MAJOR:

13 Q. Out of all the sub-teams that we've talked
14 about, which is the largest on the day of execution?

15 A. Perimeter security.

16 Q. So does perimeter security represent the
17 largest number of man hours that might go towards
18 pulling off an execution?

19 MR. MITCHELL: Object to form.

20 THE WITNESS: I'm not sure. They don't
21 have to train as much. They are already out there.
22 A lot of the training that occurs for the actual
23 members of those inside maybe train more. So for me
24 to say the hours, I don't know that to be a true
25 statement.

1 BY MS. NELSON-MAJOR:

2 Q. Do you know how much members of the firing
3 squad are compensated for participating in an
4 execution?

5 MR. BOKOVOY: I would object to that
6 question. That would be protected information. And
7 I would instruct my client not to answer that
8 question.

9 MS. NELSON-MAJOR: Mr. Bokovoy, can you
10 explain to me what about that information is
11 protected?

12 MR. BOKOVOY: We redacted that
13 information from our policy. We do not want to give
14 information about how much the executioners are
15 compensated.

16 BY MS. NELSON-MAJOR:

17 Q. I want to ask you a couple of questions about
18 the cadence. Who determines what the cadence will
19 be?

20 A. I do not know that.

21 Q. During the Gardner execution, did you hear
22 the cadence being called?

23 A. I vaguely remember that.

24 Q. What is the purpose of the cadence?

25 A. Uniformity.

1 Q. What do you mean by uniformity?

2 A. They all shoot at the same time or try to. I
3 explained that during Mr. Mitchell's questioning.

4 Q. Do you know how long it took to clean up the
5 chamber following Mr. Gardner's execution?

6 A. No more than 15 minutes.

7 Q. Besides preparing for this deposition, have
8 you ever talked with anyone at Tennessee Department
9 of Correction about the firing squad in Utah?

10 A. No.

11 Q. Have you ever talked with anyone at the
12 Tennessee Attorney General's Office about the use of
13 firing squads in Utah?

14 A. No.

15 Q. Have you ever visited any of the Tennessee
16 Department of Correction facilities?

17 A. I have.

18 Q. Which facilities?

19 MR. MITCHELL: Objection; outside the
20 scope of the notice.

21 BY MS. NELSON-MAJOR:

22 Q. You can answer, Mr. Turley.

23 A. I don't remember exactly the one I went to.
24 It was a work camp. It had a lot of industries in
25 it. But I don't remember. And then I also went to

1 a maximum security facility there. It's been many
2 years ago.

3 Q. Were you invited by the Tennessee Department
4 of Correction to visit those facilities?

5 MR. MITCHELL: Same objection; outside
6 the scope of the notice.

7 THE WITNESS: I was working with
8 National Institute of Corrections when I went there.

9 BY MS. NELSON-MAJOR:

10 Q. When you toured the maximum security
11 facility, do you recall whether that was Riverside
12 Maximum Security Institution?

13 MR. MITCHELL: Same objection.

14 THE WITNESS: I did see the electric
15 chair there in Tennessee. I don't know what the
16 name of that -- I don't know the name of the
17 facility.

18 BY MS. NELSON-MAJOR:

19 Q. Do you recall approximately how many years
20 ago you did that tour?

21 MR. MITCHELL: Same objection.

22 THE WITNESS: Ten maybe. Maybe. I
23 don't know. It's a guess.

24 BY MS. NELSON-MAJOR:

25 Q. During that tour of the execution chamber,

1 did you speak with anyone from the Tennessee
2 Department of Correction?

3 MR. MITCHELL: Same objection; outside
4 the scope of the notice.

5 THE WITNESS: Yeah. I -- I guess. They
6 were giving us a tour. I mean, I'm going back ten
7 years vaguely in my mind. The answer, did I ask
8 questions, probably, probably not. I don't know.
9 We were on a tour.

10 BY MS. NELSON-MAJOR:

11 Q. Was that tour -- was attendees also
12 affiliated with the other state Department of
13 Corrections?

14 MR. MITCHELL: Same objection.

15 THE WITNESS: That was with the National
16 Institute of Corrections.

17 BY MS. NELSON-MAJOR:

18 Q. And during that tour, did the Tennessee
19 Department of Correction personnel describe to you
20 their execution procedures?

21 MR. MITCHELL: Same objection.

22 THE WITNESS: I do not recall. I don't
23 recall that.

24 MS. NELSON-MAJOR: Could we just take
25 five minutes. I don't think that I have many

1 questions. I want to double check, but I'm thinking
2 we can wrap this up fairly soon. Thank you. All
3 right. Thank you.

4 (Short break.)

5 BY MS. NELSON-MAJOR:

6 Q. You did not read the deposition topics that
7 Mr. Mitchell's office emailed to you; is that right?

8 A. I don't think I ever saw it until today. Is
9 that what you're talking about?

10 Q. That's right.

11 A. Yeah, today when he put it up on the screen.

12 Q. In preparing for today's deposition, were you
13 preparing to discuss the costs associated with
14 carrying out the protocol for firing squad
15 executions in Utah?

16 A. Not necessarily. I mean, I reviewed
17 Mr. Pay's -- his -- his testimony. But the cost,
18 I -- I wasn't involved much with the cost. That's
19 other areas other than myself. But the cost has
20 been presented here, I think. I mean, the cost is
21 going to be different for every state.

22 Q. Beyond consulting that memo, did you review
23 any other documents related to the costs associated
24 with carrying out firing squad executions in Utah?

25 A. No.

1 Q. Do you have any direct knowledge of the costs
2 associated with carrying out firing squad executions
3 in Utah?

4 A. No.

5 Q. Do you have any reason to think that the
6 execution chamber that you toured in Tennessee could
7 not be outfitted for a firing squad execution?

8 MR. MITCHELL: Objection; outside the
9 scope of the notice, and also objection to form.

10 BY MS. NELSON-MAJOR:

11 Q. You can answer, Mr. Turley.

12 A. I don't even remember it really. I remember
13 seeing the cell and the chair and that's it. I
14 don't know -- I couldn't tell you how big it is. I
15 couldn't tell you what color it was. I couldn't --
16 I have no idea.

17 BY MS. NELSON-MAJOR:

18 Q. Do you recall whether you toured the witness
19 rooms in the execution chamber in Tennessee?

20 A. I do not.

21 MR. MITCHELL: Same objection.

22 BY MS. NELSON-MAJOR:

23 Q. If you thought a firing squad execution posed
24 a risk to staff, would you raise those concerns with
25 someone?

1 MR. MITCHELL: Object to the form.

2 THE WITNESS: Yes, I would.

3 BY MS. NELSON-MAJOR:

4 Q. And have you ever raised such a concern?

5 A. No.

6 Q. If you thought an execution by a firing squad
7 posed a risk to a witness, would you raise those
8 concerns to someone?

9 A. Yes.

10 MR. MITCHELL: Objection.

11 BY MS. NELSON-MAJOR:

12 Q. Have you ever raised such a concern?

13 A. No.

14 MS. NELSON-MAJOR: I have no further
15 questions for Mr. Turley. But I would like to hold
16 the deposition open because Mr. Turley wasn't
17 prepared to testify to a number of the topics in the
18 notice.

19 MR. MITCHELL: So two things. One, I
20 have brief redirect. And, second, there's just our
21 notice and subpoena so I don't know what capability
22 you have of that, but I don't know that it's
23 something for hashing out on the record now.

24 MS. NELSON-MAJOR: It can be on the
25 record. But sorry. I didn't realize you had

1 redirect.

2 MR. MITCHELL: That's okay.

3

4 EXAMINATION

5 QUESTIONS BY MR. MITCHELL:

6 Q. Mr. Turley, you said that at the Gardner
7 execution, after shots were fired, the only movement
8 by Mr. Gardner you saw was his head slump; is that
9 accurate?

10 A. That is correct.

11 Q. And from the time shots were fired on, was
12 Mr. Gardner strapped tightly to the chair?

13 A. Yes.

14 MR. MITCHELL: No further questions.

15

16 EXAMINATION

17 QUESTIONS BY MS. NELSON-MAJOR:

18 Q. I have just one question on recross, if you
19 will.

20 Were Mr. Gardner's hands themselves strapped
21 to the chair?

22 A. His arms or hands, yes.

23 Q. Was it his arms or his hands that were
24 strapped to the chair?

25 A. I don't know.

1 Q. Do you recall whether his fingers were
2 secured to the chair in any way?

3 A. His fingers wouldn't have been. They would
4 have been loose.

5 MS. NELSON-MAJOR: I have no further
6 questions. Thank you, Mr. Turley.

7 THE WITNESS: Thank you.

8 THE REPORTER: Would you like to order
9 this transcribed at this time, Mr. Mitchell?

10 MR. MITCHELL: Yes, please, a PDF copy.

11 THE REPORTER: And would you like a copy
12 also, Ms. Nelson-Major?

13 MS. NELSON-MAJOR: Yes. Thank you,
14 Ms. Honeycutt.

15 MR. MITCHELL: Mr. Bokovoy, Mr. Turley,
16 thank you both for your time.

17 MR. BOKOVOY: Thank you.

18 THE REPORTER: Do you wish to read and
19 sign the deposition transcript?

20 MR. BOKOVOY: I will do that.

21 FURTHER DEPONENT SAITH NOT

22 (Proceedings adjourned at 12:47 p.m.)
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E R R A T A P A G E

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UTAH DEPARTMENT OF
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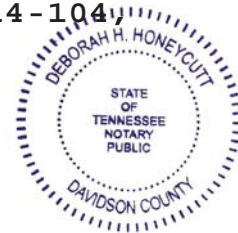
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Exhibits	-		
Ex 01 - Steven Turley 30(b) (6) Utah Dept. of Corr. 4:12 15:17, 19	-O-Y 8:4	2013 16:10,22 17:6,7	5
Ex 02 - Steven Turley 30(b) (6) Utah Dept. of Corr. 4:14 46:8,10 50:4	0	2014 78:13,14	5 14:15 59:5,7
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